

WILLIAM K. HARRINGTON
UNITED STATES TRUSTEE, REGION 2
U.S. Department of Justice
Office of the United States Trustee
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By: Mark Bruh
Trial Attorney

Presentment Date: October 31, 2024
Presentment Time: 2:00 p.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re	: Chapter 11
	:
VIEWSTAR LLC,	: Case No. 24-22716 (SHL)
	:
Debtor.	:
-----X	

**UNITED STATES TRUSTEE’S OBJECTION AND RESERVATION OF RIGHTS TO
STIPULATION AND PROPOSED ORDER EXCUSING RECEIVER’S COMPLIANCE
WITH THE REQUIREMENTS OF BANKRUPTCY CODE § 543(a) AND (b)**

**TO THE HONORABLE SEAN H. LANE,
UNITED STATES BANKRUPTCY JUDGE:**

William K. Harrington, the United States Trustee for Region 2 (the “United States Trustee”), by and through his counsel, hereby objects (the “Objection”) to the stipulation and proposed order excusing receiver’s compliance with the requirements of 11 U.S.C. § 543(a) and (b) (the “Proposed Order”).¹ In support thereof, the United States Trustee respectfully states as follows:

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Proposed Order.

PRELIMINARY STATEMENT and OBJECTION

For the reasons discussed below, if this Court grants the Transfer Venue Motion (defined below) and transfers this case to the United States Bankruptcy Court for the District of New Jersey, then that court should be permitted to opine on the relief sought by the Proposed Order parties. Alternatively, if this Court decides to convert or dismiss this case, or direct the United States Trustee to appoint a chapter 11 trustee, then services of the Receiver would be unnecessary.

The Proposed Order parties are rushing to seek this Court's approval ahead of the United States Trustee's pending motion for an order (i) transferring the bankruptcy case of Viewstar LLC (the "Debtor") to the United States Bankruptcy Court for the District of New Jersey pursuant to 28 U.S.C. § 1406(a) and Fed. R. Bankr. P. 1014(a)(2), or (ii) pursuant to 11 U.S.C. § 1112(b) converting this case to a case under chapter 7 or dismissing this case, or in the alternative, (iii) directing the United States Trustee to appoint a chapter 11 trustee pursuant to 11 U.S.C. § 1104(a) (the "Transfer Venue Motion").² The Proposed Order parties seek authority from this Court excusing the Receiver from complying with the turnover provisions of the Bankruptcy Code. Additionally, the Proposed Order parties are seeking to "retain" the services of the Receiver with respect to the Property. However, in light of the fact that the Property has no tenants, and the Receiver has not collected any money prepetition with respect to the Property, there are little or no services that the Receiver can provide that cannot be performed by the Debtor. Not only is there is no need for a Receiver to "manage and operate the Property," but the

² The return date of the Transfer Venue Motion is November 13, 2024 at 2:00 p.m.

Receiver has not met its burden of demonstrating that excusing compliance with the turnover requirements of the Bankruptcy Code would better serve the interest of creditors. Furthermore, as set out in the Transfer Venue Motion, the Property is located in New Jersey, the Debtor is incorporated under the laws of the state of New Jersey, and the Receiver is located in New Jersey.

Accordingly, in the interest of judicial economy, and in the event that this Court denies the Transfer Venue Motion in its entirety, the United States Trustee requests that this Court notice the Proposed Order for a hearing³ after the return date of the Transfer Venue Motion, and afford the United States Trustee time to file a written objection on the merits to the Proposed Order.

RESERVATION OF RIGHTS

The United States Trustee expressly reserves all rights, claims, arguments, defenses, and remedies with respect to Proposed Order, the Receiver, or other related documents filed on any other bases. The United States Trustee further reserves his right to amend or supplement this Objection to address any supplements or revisions filed in connection with the Proposed Order and to raise additional arguments or objections in connection therewith.

³ Section 543(d)(1) of the Bankruptcy Code provides that after notice and hearing, the Court:

may excuse compliance with subsection (a), (b), or (c) of this section if the interests of creditors and, if the debtor is not insolvent, of equity security holders would be better served by permitting a custodian to continue in possession, custody, or control of such property. . . .

WHEREFORE, the United States Trustee respectfully requests that this Court sustain the United States Trustee's Objection, and grant such other relief as is just and appropriate.

Dated: New York, New York
October 24, 2024

WILLIAM K. HARRINGTON
UNITED STATES TRUSTEE

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